

From: [Yashan, Dean](#)
To: [Jason Gildea](#)
Cc: [Bostrom, Mark](#); [Mathieus, George](#); [Lisa Kusnierz](#); [Ray, Robert](#)
Subject: RE: Reasonable Assurance Guidance
Date: 04/24/2012 12:37 PM
Attachments: [Supplemental Information for Reviewing Reasonable Assurance in TMDLs - Denise Keener Memo.pdf](#)
[Supplemental Information for Reviewing Reasonable Assurance in TMDLs - Denise Keener Memo.pdf](#)

Jason,

Thanks for the information and your thoughts on this topic. We generally agree with Number 1 of your take home points. Our TMDL work is consistent with this basic concept that you identify for setting load allocations.

For impaired streams, we believe that Number 2 of your take home points will not be required when we set a WLA based on the end of pipe (EOP) discharge equaling the target concentration (e.g. the numeric standard concentration where it exists). Under these circumstances, the load allocations (LAs), including natural background, are set such that the TMDL target is satisfied immediately upstream of the discharge. The TMDL target concentration is also satisfied immediately downstream of the point source discharge even with the addition of the point source load since the discharge WLA is based on meeting the TMDL target concentration in the point source effluent. The point source discharge, under these circumstances, is not causing or contributing to impairment in the receiving reach of the impaired stream once the WLA is satisfied. Therefore, the WLA is NOT based on an assumption that NPS load reductions will occur upstream, and the level of reasonable assurance implied by your Number 2 take home point should not be required (refer to first bullet of EPA guidance attached to this e-mail).

I had previously sent you example language regarding reasonable assurance and the above situation. You will again see this language within the Lower Gallatin TMDL document in reference to the City of Bozeman wastewater facility WLA. If you wish, I can resend this draft language for your review as we further refine the Lower Gallatin TMDL document.

From: Jason Gildea [mailto:Gildea.Jason@epamail.epa.gov]
Sent: Monday, April 23, 2012 4:49 PM
To: Yashan, Dean; Sivers, Eric; Bond, Jim; Fortman, Kristy; Staten, Christina; Schmidt, Christian; Byron, Timothy; Volpe, Louis; Kron, Darrin; Pipp, Michael; Ray, Robert; McCarthy, Mindy
Cc: Bostrom, Mark; Julie DalSoglio; Carson Coate; Lisa Kusnierz; Peter Brumm
Subject: Reasonable Assurance Guidance

TMDL Team -

I've attached a memo from the Director of the EPA Office of Wetlands, Oceans, and Watersheds regarding Reasonable Assurance (RA) and TMDLs. This is the most specific guidance to date that we've received regarding Reasonable Assurance and what is expected, at the National Level, for all TMDLs containing mixed sources (i.e., point and nonpoint sources). It also contains some good background information regarding the origins of this issue.

We discussed these details at length at our national meeting last week, and I would be happy to follow

up with you individually or in a team meeting. From my perspective, the take home points are these:

- (1) You're nonpoint source reductions HAVE to be feasible/possible.
- (2) You must present some type of implementation timeline/schedule (or adaptive management approach) for meeting all load reductions.
- (3) When it comes time to defend a mixed TMDL in court (or associated permits, etc), we will all be in a MUCH BETTER position with a well documented explanation of RA in the TMDL.

I don't think that any of these points will create much additional work, and frankly, I think we are already doing this in almost all of our TMDLs. However, please be aware that RA is topic that I've been instructed to take seriously when reviewing/approving TMDLs.

Jason

(See attached file: Supplemental Information for Reviewing Reasonable Assurance in TMDLs - Denise Keener Memo.pdf)

Jason Gildea
U.S. Environmental Protection Agency
Region 8, Montana Office
10 West 15th Street, Suite 3200
Helena, MT 59626
(406) 457-5028